

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
THE PEOPLE OF THE STATE OF NEW
YORK,

-against-

R. LINDLEY DE VECCHIO,

Defendant.
-----X

ERRATA

Case No. 06-CR-235 (FB)

ORIGINAL

Def
CIM

BLOCK, Senior District Judge:

The Court's Memorandum and Order of January 9, 2007, contains the following errata:

1. On pages 6-7:

Grover's affidavit also includes, as an exhibit, DeVecchio's CI file on DeVecchio; the file, which covers the period from June 26, 1980, to November 17, 1992, consists of memoranda summarizing the information provided by Scarpa to DeVecchio (i.e., "[Scarpa] advised [DeVecchio] that . . .").

The sentence should read:

Grover's affidavit also includes, as an exhibit, DeVecchio's CI file on Scarpa; the file, which covers the period from June 26, 1980, to November 17, 1992, consists of memoranda summarizing the information provided by Scarpa to DeVecchio (i.e., "[Scarpa] advised [DeVecchio] that . . .").

2. On page 20:

Each of these cases, therefore, makes clear that immunity does not attach merely because state criminal prosecutions are based upon acts that happen during the scope of a federal officer's employment. *See Ivory*, 906 F.2d at 1003 (criticizing dissent for "relapsing into the same 'scope of employment' test for removal of state prosecutions which was explicitly rejected by the Supreme Court in *Mesa*"); rather

The sentence should read:

Each of these cases, therefore, makes clear that immunity does not attach merely because state criminal prosecutions are based upon acts that happen during the scope of a federal officer's employment, see *Ivory*, 906 F.2d at 1003 (criticizing dissent for "relapsing into the same 'scope of employment' test for removal of state prosecutions which was explicitly rejected by the Supreme Court in *Mesa*"); rather

3. On page 22:

In support of its conclusion, it viewed the right of removal "to be broadly construed," *id.* at 576; *see Symes*, 286 U.S. at 517 ("It scarcely need be said that measures [afforded by the removal statute] are to be liberally construed to give full effect to the purposes for which they were enacted.").

The sentence should read:

In support of its conclusion, it viewed the right of removal "to be broadly construed," *Id.* at 576; *see also Symes*, 286 U.S. at 517 ("It scarcely need be said that measures [afforded by the removal statute] are to be liberally construed to give full effect to the purposes for which they were enacted.").

4. On page 26:

If not for the unique nature of this case growing out of the establishment of a special relationship between a federal agent, whose duties required embroiling himself in the underbelly of the criminal world, and a notorious and dangerous mafioso turncoat, there would be no question, barring an exception to the requirement of a colorable federal defense, that a federal officer who, by traverse, disassociated himself from any involvement with, or knowledge of any facts, underlying state-law murder charges would have to be tried in state court.

The sentence should read:

Therefore, if not for the unique nature of this case growing out of the establishment of a special relationship between a federal agent, whose duties required embroiling himself in the

underbelly of the criminal world, and a notorious and dangerous mafioso turncoat, there would be no question, barring an exception to the requirement of a colorable federal defense, that a federal officer who, by traverse, disassociated himself from any involvement with, or knowledge of any facts, underlying state-law murder charges would have to be tried in state court.

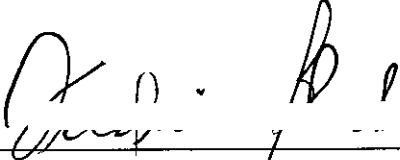
5. On page 27:

At the Court's prodding, DeVecchio's thereafter responded by submitting his affidavit explaining that the agent "is always concerned about maintaining the trust of his source," that "[a]ny special agent who handles a confidential source did so (and still does so) in a highly sensitive and clandestine way," and that "[t]he FBI encourages these clandestine relationships because the information derived from these sources is the lifeblood of its investigatory activity."

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SO ORDERED.



FREDERIC BLOCK
Senior United States District Judge

Brooklyn, New York
January 11, 2007